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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,152	09/26/2000	Sean M. Whitsell	7000-008	4838

27820 7590 07/29/2003

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EXAMINER

BEAULIEU, YONEL

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/670,152

Applicant(s)

WHITSELL, SEAN M.

Examiner

Yonel Beaulieu

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Arguments

Applicant's arguments filed 11 June 2003 have been fully considered but they are not persuasive.

Regarding Applicant's arguments (para. 4 on page 12 of response; para. bridging pages 12-13; para. 5 on page 13), the Examiner maintains does suggest requesting traffic information through a mobile terminal. Fig. 1 does illustrate such. Note also para. 0021.

Regarding Applicant's arguments (paras. 2-4), Oshizawa does suggest using cellular technology (Oshizawa uses RF frequency technology; note para. 0014).

Regarding Applicant's arguments (last para. on page 13), Oshizawa does teach location monitoring information periodically (using GPS technology; note para. 0025).

Regarding Applicant's arguments (paras. 2, 4), Oshizawa does teach querying the traffic information center (fig. 1 at least).

Overall, it has been held that a claim is anticipated if the claimed elements are found either expressly described or under principles of inherency. (see *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789).

Regarding Applicant's arguments (para. 5 on page 14), in order to establish obviousness, a reference is to be considered not only for what it expressly states, but for what it would reasonably have suggested to one of ordinary skill in the art. Also, the claimed elements need not be identical in the reference to establish obviousness.

In view of the above, the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 13 and 15 - 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Oshizawa et al. (US 2001/0001848 A1).

Regarding claims 1 – 13 and 15 – 51, Oshizawa et al. teaches a method comprising determining if travel on a learned route by a user is likely, requesting, through a mobile terminal (2) from item 6 in fig. 1, traffic information pertaining to the learned, and delivering the information via a mobile terminal (2) to the user, determining the likelihood of the travel route comprises determining if a current time corresponds to

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the travel time associated with the learned route (time window noted in at least the abstract) and predicting a destination as a mostly destination based upon the current time and the travel time associated with the learned route (see fig. 3; para. 0012 and para 0014; claim 1 at least); the method further comprising determining the location of the mobile terminal and comparing such a location information with the learned route for a match (note item 3 or 21 in fig. 1; see fig. 3; para. 0017: 16 – 20 at least) and determining successive locations (route segments) of the mobile terminal (note para. 0025 at least), the route learned being recorded and processed (para. 0024); the traffic information pertaining to the learned route being based upon accessed traffic information pertinent to at least one road segment (para. 0023 at least); processing the data having the most frequent rate of occurrence (based upon historical travel data); Oshizawa teaches one or more user settings to process the traffic information (para. 0022).

Oshizawa further teaches a computer readable media comprising software for instructing a computer to carry out the above method (note flow diagrams in figs. 3 – 5); a mobile terminal (2) comprising a wireless communications interface (5) communicating with a remote network (see fig. 1), a user interface (26) to provide (by way of items 16 and 18) information and to receive (by way of item 14) control inputs from a user (para. 0018), traffic information system control and traffic information logic that processes queries for delivery to the user (as illustrated in fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oshizawa et al. ('1848 A1) as applied to claims 1, 12, and 13.

As discussed above, Oshizawa teaches all of the limitations except for using a *weighted averaging algorithm*. However, Oshizawa does suggest the possibility of some calculation (as noted at paragraph 0022) and figs. 3 – 5 in Oshizawa do show some algorithm.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention Oshizawa's teaching is at least equivalent to the claimed invention because Oshizawa has been shown to teach algorithms (figs. 3 – 5) that achieve the same end result of providing traffic information to a user traveling on a learned route.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nimura (US 6,049,753) teaches a route device for searching and guiding.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (703) 305-4072. The examiner can normally be reached on M-R, from 0900-1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. CUCHLINSKI can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and same for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Y. BEAULIEU

July 28, 2003

YONEL BEAULIEU
PRIMARY EXAMINER